#### CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE 710 E STREET • SUITE 200 EUREKA, CA 95501-1865 VOICE (707) 445-7833 FACSIMILE (707) 445-7877

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MAILING ADDRESS: P. O. BOX 4908 EUREKA, CA 95502-4908



# RECORD PACKET COPY

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#### STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:

**APPLICANT:** 

PROJECT LOCATION:

### 1-01-047

#### SIERRA PACIFIC INDUSTRIES

At the Sierra Pacific Industries mill facility northwest of Humboldt Bay at 2293 Samoa Boulevard, west of Arcata, Humboldt County (APNs 506-180-02, 506-061-09; -10; -28)

PROJECT DESCRIPTION:

Construction of (1) a 2,000-square-foot log deck sprinkler water runoff pond, (2) a 49' x 65' concrete bark control structure, and (3) a 24" Waterman Spigotback Canal Gate.

GENERAL PLAN DESIGNATION:

Industrial General (MG)

Industrial General (MG)

None Required

ZONING DESIGNATION:

LOCAL APPROVALS RECEIVED:

OTHER APPROVALS RECEIVED:

Regional Water Quality Control

Regional Water Quality Control Board NPDES Permit (No. CA0024520)

#### OTHER APPROVALS REQUIRED:

None Required

SUBSTANTIVE FILE DOCUMENTS:

(1) Humboldt County Local Coastal Program

#### SUMMARY OF STAFF RECOMMENDATION:

Staff recommends <u>approval</u> with special conditions of the proposed construction of a (1) a 2,000-square-foot log deck sprinkler water runoff containment pond, (2) a 49' x 65' concrete bark control structure, and (3) a 24" Waterman Spigotback canal gate. The proposed project is located at the Sierra Pacific Industries (SPI) sawmill facilities site located approximately two miles west of Arcata on the north side of Highway 255 (Samoa Boulevard). The site is located at the northwest edge of Humboldt Bay adjacent to the Mad River Slough.

The site is used for lumber mill operations, truck repair operations, and log and lumber storage and has been in operation since the 1950's. A freshwater pond is located north of the area of the site used for log storage and receives storm water runoff from the site. The freshwater pond is densely vegetated with cattails and flows through an underground seep that discharges into the Mad River Slough, a tributary of Humboldt Bay. Several drainage ditches bisect the site and support wetland vegetation. While the drainage ditches exhibit wetland characteristics, the ditches do not provide complex wetland habitat.

The logs stored on the northern portion of the site are watered with sprinklers from an onsite well prior to milling to control damage to the wood caused by fungal growth. The sprinkler operation in the log storage area is a potential pollutant source for log bark, dust, and wood particulate from log handling and storage activities. These pollutants have the potential to become entrained in log deck sprinkler water runoff and storm water runoff that is directed to the freshwater pond and the Mad River Slough and Humboldt Bay. The drainage of the sprinkler water runoff into the freshwater pond is considered to be a wastewater discharge by the Regional Water Quality Control Board (RWQCB). As a result, SPI was directed by the RWQCB to (1) prevent the commingling of storm water runoff with sprinkler water runoff and, (2) obtain a National Pollution Discharge Elimination System (NPDES) permit to authorize the discharge of the sprinkler water into the freshwater pond. The purpose of the proposed development is to contain and treat log deck sprinkler water runoff from log deck sprinkler operations and to improve the quality of storm water discharge from the site to comply with directives from the Regional Water Quality Control Board.

To ensure the protection of water quality and biological productivity during construction of the sprinkler water runoff containment pond consistent with Section 30231 of the

Coastal Act, staff recommends Special Condition Nos. 1, 2, and 5. To ensure that sedimentation of receiving waters does not result from erosion of exposed areas during excavation of the containment pond, Special Condition No. 1 requires the applicant to submit for the review and approval of the Executive Director, an erosion and sedimentation control plan that would implement temporary and permanent measures to minimize erosion and sedimentation from construction activities. Special Condition No. 2 requires all work to be performed and completed during the non-rainy season between June 1 and October 15. Special Condition No. 5 requires all excavated material associated with the construction of the sprinkler water containment pond be hauled to Sun Valley Floral Farms as proposed, or to another commercial operation able to receive the material for landscaping purposes, or to an approved disposal site located outside of the coastal zone.

The project site supports several environmentally sensitive habitat areas at and adjacent to the site. The proposed development would occur adjacent to a freshwater pond and adjacent to an existing drainage ditch. The freshwater pond and drainage ditch would not be directly impacted by the project, and the project would improve the quality of the water reaching the pond and ditch. However, the freshwater pond could be indirectly impacted by an alteration to the drainage patterns at the north end of the facility, which could potentially modify the current hydrological regime of the pond. Because the proposed sprinkler water containment pond would collect and contain most of the log deck sprinkler water, there would be a decrease in the amount of water that eventually enters the freshwater pond. Although the information available regarding potential impacts to the freshwater pond as a result of the reduction of runoff reaching the pond is not definitive, the information provided by the applicant's biologist and the Department of Fish and Game indicates that the pond could be adversely impacted by decreased flows. Reducing the amount of water directed to the pond could reduce pond water levels, thereby diminishing the area of the wetland and compromising the habitat values of the area.

To ensure the protection of the environmentally sensitive habitat area consistent with Section 30240(b) of the Coastal Act and to ensure that the wetland area and habitat values of the freshwater pond are not diminished, staff recommends Special Condition No. 4. Special Condition No. 4 requires SPI to submit, prior to issuance of the coastal development permit, a plan for the review and approval of the Executive Director that provides an assessment of seasonal average pond water levels since the time that log deck sprinkler operations were implemented at the site. To the extent that these average seasonal pond water levels are not maintained following project completion, the condition requires the plan to provide for supplemental well water to be directed to the freshwater pond to maintain pre-project average seasonal pond water levels. The condition further requires the plan to include the identification of the entity and/or person responsible for monitoring and maintaining pond water levels, a schedule for installation of a water level gauge, and a schedule for monitoring pond water levels on at least a monthly basis. To further minimize adverse impacts to environmentally sensitive habitat areas, SPI proposes that all equipment access and staging locations would be on existing paved areas of the site. To ensure that wetland habitats and other environmentally sensitive habitat areas at and adjacent to the site are protected from disturbance during construction, staff recommends Special Condition No. 3 that requires, consistent with the applicant's proposed project description, that all equipment access and construction staging be limited to paved areas or areas otherwise outside of any environmentally sensitive habitat areas as shown on Exhibit No. 8.

As conditioned, staff believes that the project is fully consistent with the Chapter 3 policies of the Coastal Act.

#### **STAFF NOTES:**

1. Standard of Review

The portion of the proposed development that is the subject of the application to the Commission is located in an area shown on State Lands Commission maps over which the state retains a public trust interest. Thus, the proposed development is within the Commission's retained coastal development permit jurisdiction and the standard of review for the permit application is the Chapter 3 policies of the Coastal Act.

#### I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

#### Motion:

I move that the Commission approve Coastal Development Permit No. 1-01-047 pursuant to the staff recommendation.

#### **Staff Recommendation of Approval:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

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#### **Resolution to Approve the Permit:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

#### II. <u>STANDARD CONDITIONS:</u> See Attachment A.

#### III. SPECIAL CONDITIONS:

- 1. Erosion and Sedimentation Control Plan
- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and approval of the Executive Director, a plan for erosion and sedimentation control.
  - (1) The erosion and sedimentation control plan shall demonstrate that:
    - (a) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources;
    - (b) Temporary erosion control measures shall be implemented during construction including, but not limited to: installation of straw bales and silt fencing, and stabilization and containment of stockpiles.
    - (c) Permanent erosion control measures shall be implemented following construction including establishing vegetation on all excavated areas following construction with a native seed mix. The mix shall not contain invasive exotic species.

(2) The plan shall include, at a minimum, the following components:

- (a) A narrative report describing all temporary and permanent erosion control measures to be used during construction;
- (b) A site plan showing the location of all temporary and permanent erosion control measures;

- (c) A schedule for installation and removal of the temporary erosion control measures such that they are in place prior to commencement of construction; and
- (d) A schedule for the installation of the permanent erosion control measures.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### 2. <u>Timing of Construction</u>

To minimize adverse impacts to wetland habitats from erosion and sedimentation, all development must be performed and completed during the non-rainy season between June 1 and October 15.

#### 3. Equipment Access in Environmentally Sensitive Habitat Areas

Consistent with the applicant's proposed project description and to protect wetland habitats and other environmentally sensitive habitat areas at and adjacent to the site from disturbance, all equipment access and construction staging shall be limited to paved areas or areas otherwise outside of any environmentally sensitive habitat areas as shown on Exhibit No. 8.

#### 4. <u>Freshwater Pond Water Supplement Plan</u>

#### A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,

the applicant shall submit, for the review and approval of the Executive Director, a plan for providing supplemental well water to the freshwater pond located at the north end of the site. The plan shall be prepared by a qualified biologist or hydrologist.

- 1. The plan shall demonstrate that pre-project average seasonal pond water levels would be maintained following construction of the sprinkler water runoff containment pond.
- 2. The plan shall include, at a minimum, the following components:
  - a. An assessment of average seasonal pond water levels since the time that log deck sprinkler operations were implemented at the site;

- b. Provisions for providing supplemental well water to the freshwater pond in quantities sufficient to maintain average seasonal pond water levels in the event that average seasonal pond water levels fall below pre-project levels as determined by the assessment required in section (a) above;
- c. Installation of a pond water level monitoring gauge prior to use of the sprinkler runoff containment pond;
- d. A schedule for monitoring pond water levels on at least a monthly basis; and
- e. Identification of the person and/or entity responsible for monitoring and maintaining pond water levels;
- f. Provisions for the submittal of annual reports for the review and approval of the Executive Director by December 31 of each year that the sprinkler runoff containment facility is in operation that documents monthly pond water levels in relation to average seasonal pond levels and the dates and volumes of discharges of supplemental well water to maintain average seasonal pond levels.
- **B.** The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### 5. Debris Disposal

All excavated material associated with the construction of the sprinkler water containment pond shall be hauled to Sun Valley Floral Farms as proposed, to another commercial operation able to receive the material for landscaping purposes, or to an approved disposal site located outside of the coastal zone.

#### IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

#### 1. <u>Site & Project Description</u>

The proposed project is located at the Sierra Pacific Industries (SPI) sawmill facilities site located approximately two miles west of Arcata on the north side of Highway 255 (Samoa Boulevard). The site is located at the northwest edge of Humboldt Bay adjacent to the Mad River Slough. The site is used for lumber mill operations, truck repair

operations, and log and lumber storage and has been in operation since the 1950's. There are several existing structures on the site associated with the lumber mill and maintenance shop including sawmill, sorter, maintenance, planer, dip tank, and administrative buildings as well as several sheds. A paved area at the northern portion of the site is used for storing logs. (See Exhibit Nos.1-4.)

The site is located within a low-elevation coastal environment that includes a diversity of habitat types at and adjacent to the site including Mad River Slough and Humboldt Bay and associated mudflats, coastal salt marsh, freshwater wetlands and associated riparian forests, coastal dunes, and dune forests. A freshwater pond referred to in the permit application as the 'vegetated pond' is located north of the area of the site used for log storage. The freshwater pond is densely vegetated with cattails and flows through an underground seep that discharges into the Mad River Slough, a tributary of Humboldt Bay. In addition to receiving runoff from the subject site, this pond receives the majority of storm water from the neighboring properties to the west and north of the site. Several drainage ditches bisect the site and support wetland vegetation including wax myrtle, Pacific water-parsley, rushes, sedges, small-flowered bulrush, bitter-cress, chickweed, California figwort, and Hooker and arroyo willows. While the drainage ditches exhibit wetland characteristics, the ditches do not provide complex wetland habitat. (See Exhibit No. 5.)

The proposed project involves the construction of (1) a 2,000-square-foot log deck sprinkler water runoff containment pond, (2) a 49' x 65' concrete bark control structure, and (3) a 24" Waterman Spigotback canal gate. (See Exhibit 6.) The new pond is proposed to be approximately five-feet-deep and would involve the excavation of approximately 10,000 cubic yards of material and the construction of an approximately eight-foot-high perimeter berm. The area where the pond would be constructed is a flat, unpaved area used for log and bark storage and does not contain any vegetation or environmentally sensitive habitat. In addition, a concrete bark control structure is proposed to be constructed to the east of the log deck water pond to remove bark and wood particulate from storm water runoff. The bark control structure would be constructed on a paved area located adjacent to an existing drainage ditch. The purpose of the proposed development is to contain and treat log deck sprinkler water runoff from log deck sprinkler operations and to improve the quality of storm water discharge from the site to comply with directives from the Regional Water Quality Control Board.

The applicant proposes to utilize several erosion and sedimentation control measures during excavation and construction. The proposed measures include placing straw bales in drainage swales and installing silt fencing at strategic locations to remove silt and suspended solids from storm water runoff. The applicant further proposes that all equipment staging would occur on portions of the paved log storage area and equipment access would be gained via paved areas of the site only so as not to not impact any environmentally sensitive habitat areas (ESHA) at or adjacent to the site. In addition, the applicant proposes that a biological monitor would be present during construction activities occurring adjacent to any environmentally sensitive habitat areas to ensure that no equipment or construction activity encroaches into or disturbs these areas. The applicant indicates that the material to be excavated for construction of the pond consists of decomposed wood bark and proposes that it would be taken to Sun Valley Floral Farms for use as a soil amendment.

In October 2001, the RWQCB issued a Cleanup and Abatement Order (CAO) to SPI that requires SPI to abate discharges of petroleum hydrocarbons, pentachlorophenol, tetrachlorophenol and any other toxic compounds to Mad River Slough and groundwater. The CAO also required submittal of a feasibility work plan to address cleanup and abatement of the discharges to soil, groundwater and surface water at the sawmill. The proposed project is not related to actions required by the CAO.

#### 2. Protection of Water Quality

Section 30231 of the Coastal Act addresses the protection of coastal water quality and wetland resources in conjunction with development and other land use activities. Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means, <u>minimizing</u> <u>adverse effects of wastewater discharges and entrainment, controlling</u> <u>runoff</u>, preventing depletion of ground water supplies and substantially interference with the surface water flow, encouraging, wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams. (emphasis added)

The project site is located adjacent to Mad River Slough, a tributary to Humboldt Bay. Mad River Slough is tidally influenced and supports commercial oyster rafts and provides potential habitat for state and federally listed salmonid species. In addition, the slough supports mudflat, salt marsh, and eelgrass habitats and a variety of benthic and pelagic invertebrate marine organisms. The freshwater pond located on the north end of the log storage area is heavily vegetated with cattails and provides wetland habitat. The water in the pond eventually flows through an underground seep to Mad River Slough and Humboldt Bay. This pond receives the majority of storm water runoff from the neighboring properties to the west and north of the site. (See Exhibit No. 7.)

The logs stored on the northern portion of the site are watered with sprinklers from an onsite well prior to milling to control damage to the wood caused by fungal growth. The log deck sprinkling operations generate approximately 50,000 gallons of sprinkler water runoff per day. Log deck watering operations involve pumping groundwater from an on-

site source that is 160 feet deep and produces up to 400 gallons per minute of freshwater. Water is applied to the logs via approximately 120 sprinkler heads. There is no recirculation of the wastewater and therefore, the log deck sprinkler runoff is referred to as "once over water" by the Regional Water Quality Control Board (RWQCB).

The sprinkler operation in the log storage area is a potential pollutant source for log bark, dust, and wood particulate from log handling and storage activities. These pollutants have the potential to become entrained in log deck sprinkler water runoff and storm water runoff that is directed to the freshwater pond and the Mad River Slough and Humboldt Bay. Log bark, dust, and wood particulate can decrease water clarity and increase chemical and biological oxygen demand. Tannins and lignin concentrations from woody materials entering receiving waters can have adverse impacts on fish, aquatic invertebrates, and aquatic vegetation.

The site is covered by a General Industrial Storm Water Permit issued by the State Water Quality Control Board. The General Industrial Storm Water Permit is a statewide permit that sets forth general requirements for the monitoring and management of storm water and requires that each site covered by the permit prepare and implement a Storm Water Pollution Prevention Plan (SWPPP). The General Permit does not authorize discharge of industrial wastewater or set site-specific effluent limits on potential site pollutants. In addition, the General Permit does not allow for the commingling of storm water runoff with industrial process water runoff, such as the "once over" sprinkler water at the subject site. With the present configuration and operation of the site, the storm water runoff and the sprinkler runoff follow the same drainage path across the site to the freshwater pond to the north. The drainage of the sprinkler water runoff into the freshwater pond is considered to be a wastewater discharge by the Regional Water Quality Control Board (RWQCB). As a result, SPI was directed by the RWQCB to (1) prevent the commingling of storm water runoff with sprinkler water runoff and, (2) obtain a National Pollution Discharge Elimination System (NPDES) permit to authorize the discharge of the sprinkler water into the freshwater pond.

To separate storm water runoff from the sprinkler water runoff in compliance with the directive from the RWQCB, SPI proposes to construct a containment pond and a bark control structure to contain and treat runoff from the log deck prior to discharge to the freshwater pond. The containment pond would allow SPI to retain sprinkler runoff prior to discharge, allow solids to settle, and maximize infiltration and evaporation to minimize the need to discharge the sprinkler water runoff directly to the freshwater pond. The proposed containment pond is designed with a diversion feature such that during storm events or when sprinkler operations are not necessary, storm water contacting the log deck would flow directly into an existing storm water bypass ditch along the north end of the log deck. During periods of sprinkler operation, sprinkler water runoff would be conveyed through a proposed 24" Waterman canal gate into the containment pond. This design would prevent storm water from entering the containment pond, thus allowing for greater retention capacity for sprinkler water runoff within the containment pond. The

containment pond has an emergency overflow feature that would allow for the water to be released and discharged to the freshwater pond only when the capacity of the containment pond is exceeded.

The project also includes the installation of a concrete bark control structure to remove bark and wood particulate from storm water runoff and to allow suspended solids to settle out of storm water runoff prior to discharge to the freshwater pond. The bark control structure is designed with a series of baffles and chambers. As storm water flows into the inlet of the bark control structure, solids are allowed to settle out in the first chamber. Storm water flows over the first baffle into the second chamber where floating materials are contained. The storm water then flows under another baffle into the third chamber and continues on to overflow into an existing drainage ditch that drains to the freshwater pond.

To comply with RWOCB requirements to authorize the discharge of sprinkler runoff to the freshwater pond, SPI obtained a National Pollutant Discharge Elimination System permit from the RWOCB (NPDES Permit No. CA0024520). The NPDES permit sets forth Waste Discharge Requirements that regulate the collection, treatment, storage, and disposal associated with the discharge of log deck sprinkler water runoff to the freshwater pond. SPI anticipates that discharge of the sprinkler water from the proposed containment pond to the freshwater pond would occur only infrequently, if at all. It is in SPI's interest to not have to discharge from the containment pond to the freshwater pond to avoid the extensive water quality sampling and monitoring procedures required by the NPDES permit prior to discharge. To minimize the amount of sprinkler water runoff generated at the site, and to minimize the likelihood that discharge from the containment pond to the freshwater pond would be required, SPI has proposed to conduct sprinkler operations in a manner that would minimize the volume of runoff entering the containment pond. SPI proposes that the sprinklers would operate at the log deck only during daylight hours and only during dry weather rather than twenty-four hours a day, seven days a week as has been the previous practice. In the event that the containment pond exceeds the design capacity and must be discharged through the overflow valve, the water quality monitoring requirements of the NPDES permit would be performed in accordance with the NPDES permit.

The NPDES permit prohibits the discharge of any woody debris such as bark, twigs, branches, heartwood, sapwood, or wood chips greater than one-inch in diameter. In addition, the NPDES permit sets effluent limitations regarding pH levels and acute toxicity and also sets receiving water limitations regarding dissolved oxygen concentrations, turbidity, floating materials, taste or odor producing substances, discoloration, bottom deposits, biostimulants, temperature, and pesticides. In addition, the intent of the NPDES permit is to prohibit the discharge of sawdust to receiving waters. However, the RWQCB acknowledges that it is impractical to eliminate all sawdust discharges and that establishing a numeric limit for sawdust is infeasible. Instead, the NPDES permit requires implementation and maintenance of Best

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Management Practices (BMPs) to reduce sawdust discharges to the maximum extent practicable. The BMPs proposed by SPI and approved by the RWQCB include (1) installation of silt fencing along the western boundary of the log deck between the log deck and the existing drainage ditch, (2) manual clean up of woody material in the drainage ditch and along the silt fence, (3) installation of a fiber roll in the drainage ditch to trap woody material and to filter out silt and sawdust, (4) daily monitoring of the BMPs, and (5) weekly inspections of the entire facility to ensure good housekeeping practices. The NPDES permit also includes a monitoring program to demonstrate the effectiveness of the BMPs and compliance with water quality objectives.

Several existing Best Management Practices already utilized at the site further address pollutants associated with storm water runoff and log deck sprinkler water runoff. These BMPs include concrete blocks in place along the east side of the log storage area adjacent to the slough to prevent storm water containing bark and wood waste from flowing uncontrolled into the slough. Concrete K-rails and straw wattles are in place along the north side of the existing drainage ditch to prevent bark and wood waste from entering the ditch. In addition, there are four existing bark control structures located on the east side of the facility that further limit the amount of solids entrained in runoff. Straw wattles and oil booms are in place at all existing drop inlets, at the surface flow entrances to the bark control structures, and at additional strategic locations throughout the site.

In addition to the BMPs already existing at the site, SPI proposes to install additional erosion and sedimentation control measures during project construction including straw bales and silt fencing. The project involves the excavation of approximately 10,000 cubic yards of material which would result in the need for stockpiling material prior to disposal. The proposed erosion and sedimentation control measures do not include provisions for stabilizing and containing debris stockpiles. In addition, the location and schedule for installation and maintenance of the BMPs are not sufficiently detailed to ensure that the BMPs would be adequate to avoid adverse impacts from erosion and sedimentation. Therefore, to ensure that sedimentation of receiving waters does not result from erosion of exposed areas during excavation of the containment pond, the Commission attaches Special Condition No. 1 which requires the applicant to submit, prior to issuance of the coastal development permit and for the review and approval of the Executive Director, an erosion and sedimentation control plan that would implement temporary and permanent measures to minimize erosion and sedimentation from construction activities. These measures must include, but are not limited to, installation of straw bales and silt fencing, stabilization and containment of stockpiles, and establishing vegetation on all excavated areas following construction with a native seed mix. To further minimize the potential impacts to wetland habitats and receiving waters from sedimentation, the Commission attaches Special Condition No. 2 that requires all work to be performed and completed during the non-rainy season between June 1 and October 15.

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The settled solids in the containment pond would be removed with heavy equipment when SPI determines that clean out is necessary. The removed bark and wood particulate would be disposed of according to the Solids Disposal and Handling Requirements section of the NPDES permit that requires that the solid waste material be disposed of at a legal disposal location in accordance with State Water Board regulations. SPI proposes that the solid material consisting of wood waste and sediment would be taken to, or by, Sun Valley Floral Farms where it is used as a soil amendment for the flower growing operations. The NPDES permit also requires SPI to submit a solids disposal and handling report to the RWQCB every year that describes the annual volume of solids generated by the facility and identifies the disposal location. To ensure that the excavated material is properly disposed of, the Commission attaches Special Condition No. 5 that requires all excavated material associated with the construction of the sprinkler water containment pond to be hauled to Sun Valley Floral Farms as proposed, or to another commercial operation able to receive the material for landscaping purposes, or to an approved disposal site located outside of the coastal zone.

Section 30412 of the Coastal Act prevents the Commission from modifying, adopting conditions, or taking any action in conflict with any determination by the State Water Resources Control Board or any California Regional Water Quality Control Board in matters relating to water quality. As discussed above, the RWQCB has reviewed the proposed project and has issued an NPDES permit to authorize and set forth monitoring requirements and contaminant limitations for the discharge of log deck sprinkler runoff into the freshwater pond that drains to Mad River Slough and Humboldt Bay. The purpose of the proposed project is to comply with the directive from the RWOCB requiring SPI to prevent the commingling of storm water runoff with sprinkler water runoff and to construct a containment pond to store and treat log deck sprinkler water runoff as called out in the NPDES permit. The NPDES permit approved by the RWQCB does not include requirements for BMPs to be implemented during the construction phase of the project as required by Special Condition Nos. 1 & 2. Therefore, conditions and/or Best Management Practices (BMPs) required by the Commission to minimize adverse impacts to water quality from the proposed construction activities would not conflict with any actions taken by the RWOCB. Thus, the Commission's action on the proposed project would not result in a modification of the project, or the adoption of conditions that would be in conflict with or inconsistent with determinations made by the RWOCB in matters relating to water quality consistent with the requirements of Coastal Act Section 30412.

The proposed containment pond and bark control structure would allow log deck sprinkler water runoff to be contained and storm water runoff to be treated prior to discharging to the freshwater pond to the north. The proposed improvements would minimize the amount of pollutants, including wood particulates and tannins and lignins, from entering the freshwater pond, Mad River Slough, and Humboldt Bay. In addition, the Commission has attached special conditions requiring the implementation of BMPs to minimize adverse impacts to water quality from proposed construction activities. Therefore, as conditioned, the Commission finds that the proposed project would minimize adverse effects of wastewater discharges and entrainment and control runoff in a manner that would protect the biological productivity of coastal waters consistent with Section 30231 of the Coastal Act.

#### 3. Protection of Adjacent Environmentally Sensitive Habitat Area (ESHA)

Section 30240(b) of the Coastal Act states in applicable part:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30240(b) requires that environmentally sensitive habitat areas (ESHAs) be protected against any significant disruption of habitat values potentially resulting from adjacent development.

As discussed previously, the project site supports several environmentally sensitive habitat areas at and adjacent to the site. The proposed development would occur adjacent to a freshwater pond and adjacent to an existing drainage ditch. The freshwater pond, referred to in the permit application as the 'vegetated pond,' is located north of the area of the site used for log storage. The freshwater pond is densely vegetated with cattails and flows through an underground seep and discharges into the Mad River Slough that connects to Humboldt Bay. In addition to receiving runoff from the subject site, this pond receives the majority of storm water from neighboring properties to the west and north of the site. Several drainage ditches bisect the site and support wetland vegetation including wax myrtle, Pacific water-parsley, rushes, sedges, small-flowered bulrush, bitter-cress, chickweed, California figwort, and Hooker and arroyo willows. While the drainage ditches exhibit wetland characteristics, the ditches do not provide complex wetland habitat.

A floristic, seasonally appropriate botanical survey was conducted for areas that would be potentially impacted by the proposed development to determine if any rare and endangered plant species or communities were present within the project area. The California Native Plant Society's (CNPS) *Electronic Inventory of Rare and Endangered Vascular Plants of California* (2001) was used to verify the seasonal-appropriateness of the survey. The botanical report indicates that searches for sensitive plant species were timed so as to take place during their respective periods of active blooming. Survey results indicate that no rare or endangered plants are present at the site.

According to the botanical survey, the freshwater pond located north of the log deck is dominated by herbaceous vegetation and fringed by riparian forest. A dense stand of broadleaved cattail extends across much of the wetland area. Other taxa present include

various willows, pacific water parsley, slough sedge, Cusick's sedge, spreading rush, tapered rush, Baltic rush, purple-leaved willowherb, yellow monkeyflower, canary reedgrass, pacific silverweed, Douglas' water hemlock, and small-flowered bulrush. Additional taxa present in or near standing water include common three-square, jointed rush, toad rush, creeping spike-rush, three-ribbed arrowgrass, common mare's-tail, marsh pennywort, and duckweed. Woody vegetation characterizes the margins of the wetland and is dominated by riparian and/or mesic-associated species such as wax myrtle, red alder, willows, twinberry, and California blackberry.

According to the botanical report, the freshwater pond is unusual in that it involves: (1) a peat layer often one meter or greater in depth, (2) floating mats of vegetation, and (3) an apparently rare assemblage of plant species. Based on these characteristics, the wetland may be best classified as a 'fen.' Fen habitat is globally rare and rare in California, covering less than 10,000 acres worldwide and less than 2,000 acres in the state. The community type is considered to be a "high inventory priority" by the California Natural Diversity Database (CNDDB).

The pond was reportedly excavated about 30 years ago to create a log deck storage area retention pond. Bark fragments and other woody debris that were historically directed toward the wetland may have increased the rate of peat accumulation in some areas. The botanical report states that vegetation patterns apparent in aerial photographs further indicate that an essentially contiguous wetland system, dissected by roads and bordered on either side by upland vegetation, extends northwest several hundred meters from the fen to the leading margin of a migrating sand dune. Thus, the botanical report suggests that the fen's most important area of hydrological influence may have historically extended from an area largely or wholly outside that currently occupied by the mill facility.

The proposed project would reduce the amount of bark and wood particulate that enters the freshwater pond resulting in an overall water quality benefit by decreasing the chemical and biological oxygen demand and decreasing tannin and lignin concentrations. Additionally, the requirements of the NPDES permit would ensure that significant adverse impacts from contaminated discharge to the freshwater pond are minimized. For example, the permit prohibits or places limitations on: (1) acutely toxic effluent and toxicity in the receiving waters; (2) reductions in dissolved oxygen levels; (3) changes in pH; (4) increases in turbidity; (5) temperature changes; and (6) discharges of any material (e.g. oils, greases, waxes) that cause a film or coating on the surface of the water.

The freshwater wetland would not be directly impacted by the project, and the project would improve the quality of the water reaching the pond. However, the freshwater pond could be indirectly impacted by an alteration to the drainage patterns at the north end of the facility, which could potentially modify the current hydrological regime of the pond. Because the proposed sprinkler water containment pond would collect and contain most of the log deck sprinkler water, there would be a decrease in the amount of water that

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eventually enters the freshwater pond. As noted previously, log deck sprinkler operations generate approximately 50,000 gallons of sprinkler runoff per day. SPI estimates that the amount of water associated with the sprinkler system reaching the freshwater pond could be reduced by half the current levels. The pond would still receive storm water runoff from the log deck which would be directed first to the proposed bark control structure before being discharged to the freshwater pond and therefore, there would be no decrease in the amount of storm water that enters the pond.

According to the botanical report, the potential effects from the reduction of sprinkler runoff to the freshwater pond and its community of plant life are unknown. The botanical report does state that:

"Reducing or eliminating water runoff from the mill facility to the fen would probably constitute a return toward the hydrological regime under which the wetland developed for most of its history. At the same time, it is difficult to refute the possibility that increased runoff from the facility in recent decades has somehow facilitated or enhanced the development of the wetland's unique characteristics. Any decision regarding appropriate levels of future runoff from the facility should consider not only the wetland's existing condition but also its historical and ecological contexts."

Commission staff has consulted with staff of the Department of Fish and Game regarding the indirect impacts to the freshwater pond as a result of the change to the hydrologic regime at the site. Although the information available regarding potential impacts to the freshwater pond as a result of the reduction of runoff reaching the pond is not definitive, the information provided by the applicant's biologist and the Department of Fish and Game suggests that the pond could be adversely impacted by decreased flows. Reducing the amount of water directed to the pond could reduce pond water levels, thereby diminishing the area of the wetland and compromising the habitat values of the area.

The Commission notes that information submitted by the applicant states, "If there is a major concern over the decrease of sprinkler water runoff that enters the vegetated pond, SPI is willing to discuss the possibility of augmenting the amount of sprinkler water they use to prevent a decrease in the amount of water the vegetated pond receives." Therefore, to ensure that the wetland area and habitat values of the freshwater pond are not diminished, the Commission attaches Special Condition No. 4. Special Condition No. 4 requires SPI to submit a plan for the review and approval of the Executive Director that provides an assessment of seasonal average pond water levels since the time that log deck sprinkler operations were implemented at the site. To the extent that these average seasonal pond water levels are not maintained following project completion, the condition requires the plan to provide for supplemental well water to be directed to the freshwater pond to maintain pre-project average seasonal pond water levels. The condition further requires the plan to include the identification of the entity and/or person

responsible for monitoring and maintaining pond water levels, a schedule for installation of a water level gauge, and a schedule for monitoring pond water levels on at least a monthly basis.

As discussed above, the evidence regarding the significance of impacts to the freshwater pond from decreased water runoff is not definitive. An extensive hydrological and biological study would be required to more fully address how the reduction of sprinkler water runoff precisely affects habitat values, functions, and the area of the freshwater pond. Among other things, the study would need to quantify the amount of runoff generated at the site relative to the surrounding area and analyze the change in the drainage patterns as a result of the construction of the containment pond and limiting sprinkler operations. Should SPI prepare this information, the Commission could consider a permit amendment in the future to eliminate or modify the requirement to supplement the flow into the freshwater pond if the information demonstrates that the supplemental flow is not required to maintain the wetland functions, values, and area of the pond consistent with the functions, values, and area of the pond provided prior to installation of the sprinkler water containment pond.

To further minimize adverse impacts to environmentally sensitive habitat areas, SPI proposes that all equipment access and staging locations would be on existing paved areas of the site. To ensure that wetland habitats and other environmentally sensitive habitat areas at and adjacent to the site are protected from disturbance during construction, the Commission attaches Special Condition No. 3 that requires, consistent with the proposed project description, that all equipment access and construction staging be limited to paved areas or areas otherwise outside of any environmentally sensitive habitat areas as shown on Exhibit No. 8.

The proposed project originally included several other project elements that have been eliminated from the project to avoid direct impacts to wetlands, including the drainage ditches. As originally proposed, the bark control structure would be located within the drainage ditch that supports wetland vegetation. SPI has amended the project to relocate the bark control structure entirely outside of the drainage ditch and onto the paved log storage area adjacent to the ditch. As revised, the bark control structure would not result in wetland fill and would be located in a manner that would allow for storm water runoff to be directed through the structure prior to entering the drainage ditch.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area. Therefore, the Commission finds that the project as conditioned is consistent with Section 30240(b) of the Coastal Act.

#### 4. Visual Resources

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and requires in applicable part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

The proposed development is located on the west side of Highway 255 (Samoa Boulevard) near where the mouth of Mad River Slough enters Humboldt Bay. The proposed runoff containment pond and bark control structure would not be visible from Highway 255 or any other public vantage point because of its distance from the road and because of the intervening development and log storage associated with the mill facility. The project does not involve any other above-ground development that would have adverse impacts to views to or along the coast and therefore, the appearance of the site as viewed from the slough, Highway 255, or surrounding areas would not change. The project involves a significant amount of excavation, approximately 10,000 cubic yards. However, this excavation does not constitute significant landform alteration, as the grading would occur in an existing flat area used for log and bark storage.

Therefore, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act as the development would not block views to and along the coast, would not involve any alteration of land forms, and the proposed runoff containment pond and concrete bark control structure would not result in any significant change to the visual character of the coastal area.

#### 5. <u>Public Access</u>

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access.

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The project site is located adjacent to the Mad River Slough. Public access to the slough is provided at the southeast corner of the Sierra Pacific Industries property on the east side of the Mad River Slough Bridge. This access location is approximately 800-1,000 feet from the area of the site where the proposed runoff containment pond and associated structures would be constructed and as a result, this access location would not be affected by the proposed project. There are no public trails or other public roads that provide shoreline access within the immediate vicinity of the project. The proposed project does not involve any work in the slough and therefore, the project would not result in any conflicts with boating, fishing, or other recreational uses of the slough. Furthermore, the proposed project would not change the nature or intensity of use of the site, and thus would not create any new demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project as conditioned, does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

#### 6. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. Mitigation measures that will minimize or avoid all significant adverse environmental impact have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

### EXHIBITS:

- Regional Location
  Vicinity Map
- 3. Site Location
- 4. Site Map
- Habitat Map
  Site Plan

- 7. Site Drainage
  8. Access & Staging Map

#### ATTACHMENT A

#### Standard Conditions:

- 1. <u>Notice of Receipt and Acknowledgment</u>. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. <u>Interpretation</u>. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment</u>. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. <u>Terms and Conditions Run with the Land</u>. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.











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